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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matters of

Federal-State Joint Board
on Universal Service

Access Charge Reform

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CC Docket No. 96-45

CC Docket No. 96-262

COMMENTS OF CENTURYTEL, INC.

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CENTURYTEL, INC. (CenturyTel), through its attorneys, hereby submits the following comments in response to the Commission's recent Further Notice of Proposed Rulemaking (Further Notice) in these proceedings.¹

INTRODUCTION

CenturyTel, headquartered in Monroe, Louisiana, is a leader in providing integrated communications services to rural markets. CenturyTel provides a variety of communications services to rural communities in 21 states, including local exchange, wireless cellular telephone service, personal communications services (PCS), long distance, security, data, and Internet access services. CenturyTel is a leader in providing a full range of communications and information services to rural America. CenturyTel's rural exchanges provide local exchange service to 1.2 million access lines, but approximately half of its exchanges have fewer than 1,000

¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, and *Access Charge Reform*, CC Docket No. 96-262, Seventh Report and Order and Thirteenth Order on Reconsideration in CC Docket No. 96-45, Fourth Report and Order in CC Docket No. 96-262, and Further Notice of Proposed Rulemaking, FCC 99-119 (rel. May 28, 1999) ("Further Notice").

access lines each. Very few of its exchanges have greater than 10,000 access lines. CenturyTel has certified to the Commission that all of its operating companies meet the statutory definition of a "rural telephone company." CenturyTel serves fewer than 2 percent of the Nation's aggregate nationwide subscriber lines.

As a holding company that owns and operates rural telephone companies, CenturyTel will not receive universal service support for its rural study areas from the Commission's new support mechanism for non-rural carriers. Nevertheless, the hold harmless issues raised in the Commission's Further Notice are of fundamental importance to all carriers, both rural and non-rural. As the Commission completes its initial reform of universal service for non-rural carriers and begins to study potential reforms for rural carriers, CenturyTel urges the Commission to reaffirm its commitment to the principle that each carrier should be held harmless from decreases in universal service support levels on a going-forward basis.

BACKGROUND

To preserve and protect universal service goals as competition develops in local telecommunications markets, the Telecommunications Act of 1996 mandated reform of the Commission's universal service system. Specifically, the 1996 Act required universal service support to be "specific, predictable, and sufficient,"² and stated that it "should be explicit."³ To implement these Congressional directives, the Commission has, since 1996, sought to implement a

² 47 U.S.C. § 254(b)(5).

³ 47 U.S.C. § 254(e).

universal service support mechanism for non-rural carriers that bases support on estimates of the forward looking costs of providing service.⁴ To ease this transition, the Commission, in its *Universal Service Report to Congress* committed itself to “hold harmless” principles, finding that “no state should receive less federal high cost assistance than it currently does.”⁵ In response to a Commission request for recommendations on this point, the Joint Board agreed with the Commission’s commitment, and recommended expansion of this principle to ensure that “no non-rural carrier, including the Puerto Rico Telephone Company, will receive less federal high cost assistance than the amount it currently receives from explicit support mechanisms.”⁶

In the Further Notice, the Commission expressed its support for hold-harmless principles, but sought comment on whether hold harmless should be implemented on a state-by-state or on a carrier-by-carrier basis. CenturyTel urges the Commission to adopt a carrier-by-carrier hold harmless mechanism because the carrier-by-carrier approach will ease regulatory uncertainty for all carriers, especially rural carriers for which the Commission will not likely revisit this issue in the near future. In addition, a carrier-by-carrier mechanism is the easiest and most effective way to achieve the Commission’s hold harmless policy goals. Moreover, a carrier-by-carrier hold harmless policy best reflects the shared universal service responsibilities of the state and federal commissions.

⁴ By discussing these Commission actions in these comments, CenturyTel does not endorse or support the Commission’s efforts to reform universal service support using a cost proxy model.

⁵ *Federal-State Joint Board on Universal Service*, Report to Congress, 13 FCC Rcd 11499, 11602 (1998).

DISCUSSION

A. The carrier-by-carrier hold harmless policy serves the public interest by reducing regulatory uncertainty for all carriers.

All carriers and their customers will benefit from a Commission commitment to a carrier-by-carrier hold harmless mechanism for universal service support. Generally speaking, rural carriers, such as CenturyTel, are far more dependent on universal service support than larger, non-rural carriers and are more vulnerable to the loss of low-cost or high-revenue subscribers in a competitive market. The Commission's actions with respect to non-rural carriers will undoubtedly be seen as a model from which the Commission intends to work as it begins the task of reforming universal service for rural carriers over the next several years. If the Commission adopts a state-by-state hold harmless mechanism, its action could call into question the universal support flows rural carriers will receive at the conclusion of this effort. Whether or not the Commission intends to foreshadow its resolution of this critical issue for rural carriers, its decision could have adverse consequences for these carriers and their customers for years as the Commission's processes move forward.

A carrier-by-carrier hold harmless mechanism will provide rural carriers with assurances that their business plans for the next several years will remain viable. A state-by-state hold harmless mechanism, in contrast, with its implied threat that some carriers may see severe reductions in their explicit universal service support flows, will force even rural carriers

⁶ *Federal-State Joint Board on Universal Service*, Second Recommended Decision, 13 FCC Rcd 24744, 24764 (Jt. Bd. 1998).

to be more cautious in their plans for network upgrades, rollout of new services, and competitive expansion into new territory.

Incumbent LECs are operating today in a highly unstable regulatory environment, with many important and unresolved issues currently before the Commission, including interstate access charge reform, represervation of the authorized rate of return for local exchange carriers, universal service support generally, separations reform, depreciation, local number portability, and others. Accordingly, adoption of a state-by-state hold harmless mechanism could further hamper rural LECs' ability to obtain financing for new projects and their access to capital markets generally for years to come. Regulatory risk is an important, even a primary, source of uncertainty for carriers seeking financing through offerings in capital markets. While non-rural LECs may quickly know or be reasonably able to calculate the potential impact of the Commission's ultimate hold harmless solution, the regulatory uncertainty raised by a state-by-state hold harmless mechanism could hamper rural LECs in this area potentially for the foreseeable future.

B. The carrier-by-carrier hold harmless approach is the only way to ensure rate stability.

As the Commission shifts to computing universal service support based on forward-looking costs, a mechanism that holds each carrier harmless is the simplest and most effective way to achieve the Commission's policy goals. In the Commission's order adopting the hold harmless principle, the Commission reasoned that such a policy would "avoid potential rate shock when the new federal support mechanism goes into effect," and "prevent undue

disruption of state rate designs that may have been constructed upon, and thus are dependent upon, current federal high cost support flows.”⁷ Only a carrier-by-carrier hold harmless mechanism will ensure that these goals are met. Carrier business plans and local rates are developed based on support the carrier individually receives from universal service support mechanisms, not support received by other carriers in the state, or by the state in the aggregate. Contractions in universal service support will, of necessity, require carriers to review their plans for investments, as well as their intrastate and interstate service rates.

A state-by-state hold harmless policy will place unwanted upward pressure on some local rates, contrary to the mandate of section 254(b)(3), as interpreted by the Commission.⁸ In interpreting this section, the Commission stated that the statutory requirement that rates remain “reasonably comparable” between urban and rural, insular and high cost areas obligates the Commission to adopt policies that “prevent pressure from high costs and the deployment of competition from causing unreasonable increases in rates above current, affordable levels.”⁹ Only a carrier-by-carrier hold harmless policy will preserve current state rate designs. Because federal high cost support is used to maintain affordable local rates, and is applied against intrastate costs when developing local rate levels, the withdrawal or contraction of this support will, of necessity, pressure local rates. Carriers that lose revenues in the transition to forward-looking support will need to seek local rate increases at the state level, for example, through

⁷ Further Notice at para. 34.

⁸ 47 U.S.C. § 254(b)(3).

exogenous increases in state price caps or under rate-of-return regulation. Customers, especially those with limited ability to pay for telephone service, will be primary victims of any other policy.

The Commission also cannot rely on state universal service support mechanisms to “fix” sudden or severe decreases in support from federal mechanisms that is otherwise needed to maintain affordable and reasonably comparable rates. The Commission, in adopting a per-line estimate of the state’s resources and share of responsibility for universal service support, has effectively apportioned this obligation between the two jurisdictions. States should be free to develop universal service support mechanisms that allocate state universal service resources according to state policy goals and the mandates of section 254, just as the Commission bears a responsibility to allocate federal support. A state should not be obligated to design a system merely to correct failings or anomalies created by the new federal mechanism. In addition, with essentially no limit on the amount any individual carrier’s support could decrease under a state-by-state hold harmless mechanism, there is no guarantee even that a state’s universal service resources, under the Commission’s own assessment, would be sufficient to accomplish this task.

C. The impact on the size of the new federal universal service support mechanism is likely to be small.

Relative to the overall size of the federal universal service fund, the magnitude of any increase as a result of the Commission’s adoption of a carrier-by-carrier hold harmless mechanism

⁹ Further Notice at para. 30.

is likely to be small. In the Further Notice, the Commission expressed its concern that carrier-by-carrier hold harmless potentially could increase the overall size of the support mechanism.

CenturyTel submits that this increase is likely to be negligible in size, when measured against the most critical yardstick in this area – the impact on ratepayers who ultimately must pay for carrier contributions to the fund. Increases as a result of a carrier-by-carrier, as opposed to a state-by-state, hold harmless mechanism, are likely to be only a few pennies at most. In any event, any impact of the Commission's decision on hold harmless will be far overshadowed by the Commission's decisions on other issues raised in the notice, such as the size of the state share, the area over which costs should be averaged, and the national benchmark.

CONCLUSION

For the foregoing reasons, CenturyTel urges the Commission to adopt a carrier-by-carrier hold harmless mechanism to ease the transition to forward-looking universal service support for all LECs.

Respectfully submitted,
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